



COUNCILMEMBER DONNA FRYE
City of San Diego
Sixth District

MEMORANDUM

DATE: October 31, 2007

TO: David Wescoe, SDCERS Retirement Administrator
Roxanne Story Parks, SDCERS Chief Compliance Officer
SDCERS Board of Trustees

FROM: Councilmember Donna Frye
Councilmember Tony Young

SUBJECT: November SDCERS Board of Trustees meeting regarding
proposed Conflict of Interest and Whistleblower Policies

We recently read a September 10, 2007, memorandum from Roxanne Story-Parks, SDCERS Chief Compliance Officer, to the SDCERS Business & Governance and Audit Committees regarding *Proposed Ethics, Conflict of Interest and Whistleblower Policies* and found that it was missing crucial language. Specifically, it appears to protect everybody except an outside, independent, non-city employee, such as a SDCERS Board Trustee.

Both the Kroll and Navigant Reports along with about everyone else specifically identified the treatment of former SDCERS Board Trustee, Diann Shipione as whistleblower retaliation requiring remedial action. In particular, former SEC Chairman Arthur Levitt personally noted the retaliation against Shipione as a low watermark for the City of San Diego. It is clear that the expectation was for SDCERS to focus on that area of concern above all others.

In order to comply with normal governmental standards and common decency SDCERS, through this policy, should protect Trustees who question and report inappropriate or potentially illegal activities. We believe that your policy should be re-worded throughout to specifically include protection for all SDCERS Trustees

CC: Honorable City Council
Honorable Mayor Sanders
City Attorney, Michael Aguirre
Independent Budget Analyst, Andrea Tevlin
Stanley Keller, Independent Monitor

Attachment: SDCERS Whistleblower Policy

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WHISTLEBLOWER POLICY

CLEAN VERSION

[No Strikeout Version Provided]

Whistleblower Policy

- (a) Purpose: It is the public policy of the State of California and of the Board of Administration of SDCERS to encourage employees to notify an appropriate government or law enforcement agency when they have reason to believe their employer is violating a state or federal statute or not complying with a state or federal rule or regulation. Whistleblowers are provided with protection against retaliation for engaging in valid whistle-blowing activities as defined above under the provisions of California Labor Code §1102.5 and San Diego Municipal Code §27.3573. The purpose of this policy is to assure SDCERS' employees that they are provided with such protection in compliance with the law.
- (b) Scope of Policy: For purposes of this Policy, SDCERS' employees includes those persons who are employees of the City of San Diego assigned to work at SDCERS.
- (c) Protected Persons: Under the Labor Code, a "whistleblower" is an employee who discloses information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses:

1. A violation of a state or federal statute
2. A violation or noncompliance with a state or federal rule or regulation, or
3. With reference to employee safety or health, unsafe working conditions or work practices in the employee's employment or place of employment

Under the San Diego Municipal Code, a "whistleblower" is any person, including employees and legal entities, who discloses to the San Diego Ethics Commission or another appropriate agency, office or department, information which, if true, would be:

1. A work-related violation by a City Official of any law or regulation
2. A gross abuse of City funds
3. A gross abuse of authority
4. A conflict of interest of a City Official
5. A specific and substantial danger to public health or safety due to an act or omission of a City Official, use of a City office or position, or use of City resources for personal gain

- (d) Policy: It is the policy of the Board of Administration that no *Board* or *Staff Member* may retaliate against any SDCERS *Staff Member*, service provider, member, beneficiary or any other person who complies with the whistleblower provisions of the Labor Code or the San Diego Municipal Code.